IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE THOTTATHIL B.RADHAKRISHNAN

TUESDAY, THE 17TH JULY 2007 / 26TH ASHADHA 1929

OP.No. 316 of 2002(K)

PETITIONER:

A.P. HARIDAS, (EX.GO-1927N AEE (E & M)
PUTHUKUDY HOUSE, ATHIRAKAM VILLAGE,
MUNDAYAD P.O., KANNUR DISTRICT, KERALA STATE.

BY ADV. SRI.SARVOTHAMAN

RESPONDENTS:
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1. UNION OF INDIA, REPRESENTED BY THE
SECRETARY TO THE GOVERNMENT OF INDIA,
MINISTRY OF SHIPPING AND TRANSPORT BORDER
ROADS DEVELOPMENT BOARD-B-WING-4TH FLOOR,
SSENA BHAVAN, NEW DELHI-110 011.

2. DIRECTOR GENERAL, BORDER ROADS,
SEEMA SEDAK BHAVAN, RING ROAD,
NEW DELHI - 10.

3. THE CHIEF ENGINEER (PROJECT),
VARTAK, C/O. 99 APO.

4. THE RECORD OFFICER, C.R.E.F. RECORDS,
DIGHI CAMP, PUNE - 15.

BY ADV. SRI.P.S.SREEDHARAN PILLAI,
SRI.JOHN VARGHESE,

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 17/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER ON CMP NO. 561/2002 IN OP NO. 316/2002 K.

DISMISSED

17/07/2007. SD/- THOTTATHIL B.RADHAKRISHNAN, JUDGE.

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1. COPY OF THE LAST PAY CERTIFICATE OF THE PETITIONER.

EXT.P2. COPY OF THE ORDER NO. 18801/AEE/E&M)/DGRR//EIA DT. 20/5/86.

EXT.P3. COPY OF THE REPRESENTATION BY THE PETITIONER BEFORE THE R2 DT. 3/1/90.

EXT.P4. COPY OF THE REPLY TO EXT. P3 DT. 03/04/90 BY HQ, PROJECT PUSHPAK.

EXT.P5. COPY OF THE REPRESENTATION BY THE PETITIONER BEFORE THE R2 DT. 20/10/90.

EXT.P6. COPY OF THE REPLY TO EXT. P5 NO. 16084/DP/DGBR/ETD DT. 13/6/91 ISSUED ON BEHALF OF THE R2.

EXT.P7. COPY OF THE JUDGMENT IN CIVIL RULE NO. 4284/91 OF THE HIGH COURT OF JUDICATURE IN ASSAM AND NAGALAND DT. 9/5/96.

EXT.P8. COPY OF THE ORDER NO. 12629/DGBR/EG2/ DT. 4/12/00 BY THE R2 TO THE PETITIONER.

EXT.P9. COPY OF THE LETTER NO. APH/137/PF DT. 20/8/2001 BY THE PETITIONER.

EXT.P9A. COPY OF THE ACKNOWLEDGEMENT RECEIPT ISSUED BY THE PETITIONER.

RESPONDENT'S EXHIBITS

EXT.R1A. COPY OF THE ORDER NO. 12629/DGBR/EG2 DT. 4/12/00 OF THE R1.

EXT.R2A. COPY OF THE ORDER NO. 12629/2DGBR/EG2 DT. 4/12/00 DIRECTOR (ADMN) DIRECTORATE GENERAL BORDER ROADS.

True copy

tga

THOTTATHIL B.RADHAKRISHNAN, J.

O.P.No.316 OF 2002

Dated this the 17th day of July, 2007

JUDGMENT

After the retirement of the petitioner in June, 1996, he has raked up the question as to whether he was entitled to be promoted as Superintendent (E/M) Grade -I with effect from January, 1970. The basic allegation is that the DPC consideration was faulty. He had moved the Guwahati High Court earlier, which resulted in a direction for consideration of his case for appropriate orders. This led to Ext.R2(a) being issued on 4.12.2000, stating reasons why the petitioner could not get promoted. It has been demonstrated in the counter affidavit that the persons who have been promoted as against the promotion quota were found superior and the promotion was on pure merit cum seniority basis. The petitioner does not, however, point out any rule in his favour to show that merit-cum-seniority is not the basis on which the promotion in question ought to have been made. Under such circumstances, having regard to the facts stated in the counter affidavit, I do not find

any legal infirmity or jurisdictional error in the impugned action or the refusal of the respondents to promote the petitioner as Superintendent (E/M) Grade -I with effect from January, 1970, as prayed for. For these reasons, the writ petition fails.

In the result, the writ petition is dismissed.

Sd/-

THOTTATHIL B.RADHAKRISHNAN,
Judge

kkb.

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THOTTATHIL B. RADHAKRISHNAN, J

O.P.NO.316 OF 2002

JUDGMENT

17TH JULY, 2007.

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